

26 CFR 1.61-12: Income from discharge of indebtedness.

Rev. Proc. 2018-39

SECTION 1. PURPOSE

This revenue procedure amplifies Rev. Proc. 2015-57, 2015-51 I.R.B. 863, and Rev. Proc. 2017-24, 2017-7 I.R.B. 916, to extend relief to taxpayers who took out private student loans to finance attendance at a school owned by Corinthian College, Inc. (CCI) or American Career Institutes, Inc. (ACI).

SECTION 2. BACKGROUND

.01 Rev. Proc. 2015-57 and Rev. Proc. 2017-24 provide relief for taxpayers who took out Federal student loans to finance attendance at a school owned by CCI and ACI, respectively, and whose loans were discharged by the Department of Education under the “Defense to Repayment” or “Closed School” discharge process.

.02 Specifically, Rev. Proc. 2015-57 and Rev. Proc. 2017-24 provide the following relief: First, the Internal Revenue Service (“IRS”) will not assert that these taxpayers must recognize gross income resulting from the discharge of these Federal student loans. Second, the IRS will not assert that these taxpayers must increase their gross income by the amount of certain tax credits or deductions related to the discharged Federal student loans. Third, the IRS will not assert that the creditors of these discharged loans must file information returns and furnish payee statements

under section 6050P of the Internal Revenue Code as a result of discharging these Federal student loans.

.03 The Treasury Department and the IRS are aware that Federal and state governmental agencies have brought legal causes of action that have resulted in settlements resolving various allegations of unlawful business practices, including unfair, deceptive, and abusive acts and practices by CCI, ACI, and certain private lenders that made student loans to finance attendance at schools owned by CCI and ACI.

.04 Neither Rev. Proc. 2015-57 nor Rev. Proc. 2017-24 address the discharge of private student loans taken out to attend a school owned by CCI or ACI.

.05 The Treasury Department and the IRS have determined that it is appropriate to extend the relief provided in Rev. Proc. 2015-57 and Rev. Proc. 2017-24 to taxpayers who took out private student loans to finance attendance at a school owned by CCI or ACI where the private loans are discharged based on a settlement of a legal cause of action against CCI, ACI, and certain private lenders. As in Rev. Proc. 2015-57 and Rev. Proc. 2017-24, the Treasury Department and the IRS conclude that most private student loan borrowers would be able to exclude from gross income all or substantially all of the discharged amounts based on the insolvency exclusion; fraudulent or material misrepresentations made by CCI, ACI, or certain private lenders to the students; or another tax law authority.

SECTION 3. SCOPE

The treatment provided in section 4 of this revenue procedure applies to any taxpayer who took out private student loans to finance attendance at a school owned by

CCI or ACI and whose private student loans are discharged based on a settlement of a legal cause of action against CCI, ACI and certain private lenders. This revenue procedure also applies to any applicable entity (as defined in section 6050P and the regulations thereunder) that discharges these loans.

SECTION 4. AMPLIFICATION OF REV. PROC. 2015-57 AND REV. PROC. 2017-24

Rev. Proc. 2015-57 and Rev. Proc. 2017-24 are amplified to provide as follows:

.01 Discharge of indebtedness income. The IRS will not assert that a taxpayer within the scope of this revenue procedure must recognize gross income as a result of the discharge of a private student loan taken out to finance attendance at a school owned by CCI or ACI.

.02 Recapture of tax credits and tax benefit rule. The IRS will not assert that a taxpayer within the scope of this revenue procedure must increase his or her taxes owed in the year of a discharge, or in a prior year, if he or she received an education credit under section 25A attributable to payments made with proceeds of the discharged loans, or claimed a deduction for the payment of interest under section 221 attributable to interest paid on a discharged loan, or claimed a deduction for the payment of qualified tuition and related expenses under section 222 attributable to payments made with proceeds of the discharged loan.

.03 Information reporting. The IRS will not assert that a creditor that is an applicable entity must file information returns and furnish payee statements pursuant to section 6050P for the discharge of any indebtedness within the scope of this revenue procedure.

SECTION 5. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 2015-57 and Rev. Proc. 2017-24 are amplified.

SECTION 6. EFFECTIVE DATE

For private student loans taken out to finance attendance at schools owned by CCI, this revenue procedure will be treated as in effect as of the effective date of Rev. Proc. 2015-57 (taxable years beginning on or after January 1, 2015). For private student loans taken out to finance attendance at schools owned by ACI, this revenue procedure will be treated as in effect as of the effective date of Rev. Proc. 2017-24 (taxable years beginning on or after January 1, 2016). Taxpayers may apply this revenue procedure in taxable years for which the period of limitation on claims for a credit or refund under section 6511 has not expired.

SECTION 7. DRAFTING INFORMATION

The principal author of this revenue procedure is Craig Wojay of the Office of Associate Chief Counsel (Income Tax & Accounting). For further information regarding discharge of indebtedness income and exclusions, contact Mr. Wojay at (202) 317-4718 (not a toll-free call), and for further information regarding information reporting, contact Elizer Mishory at (202) 317-6844.